



DEPARTMENT OF COMMERCE

**International Trade Administration**

**[A-580-876]**

**Welded Line Pipe from the Republic of Korea: Notice of Court Decision Not in Harmony with the Results of Antidumping Administrative Review; Notice of Amended Final Results**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On January 3, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Husteel Co., Ltd. v. United States*, Consol. Court No. 19-00112, sustaining the Department of Commerce (Commerce)'s second remand results pertaining to the administrative review of the antidumping duty (AD) order on welded line pipe (WLP) from the Republic of Korea (Korea) covering the period December 1, 2016, through November 30, 2017. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margins assigned to NEXTEEL Co., Ltd. (NEXTEEL), SeAH Steel Corporation (SeAH), and non-selected respondents.

**DATES:** Applicable January 13, 2022.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136.

## SUPPLEMENTARY INFORMATION:

### Background

On June 14, 2019, Commerce published its final results in the 2016-2017 AD administrative review of WLP from Korea.<sup>1</sup> Commerce calculated weighted-average dumping margins of 38.87 percent for NEXTEEL, 27.38 percent for SeAH, and 32.49 percent for the non-selected respondents.<sup>2</sup> After correcting ministerial errors contained in the *Final Results*, on July 23, 2019, Commerce published the *Amended Final Results* and revised the calculated weighted-average dumping margins for SeAH and the non-selected respondents to 22.70 percent and 29.89 percent, respectively.<sup>3</sup>

Husteel Co., Ltd., Hyundai Steel Co. (Hyundai Steel), NEXTEEL, and SeAH appealed Commerce's *Amended Final Results*. On August 26, 2020, the CIT remanded the *Amended Final Results* to Commerce regarding its: (1) rejection of SeAH's third country sales to calculate normal value (NV); (2) particular market situation (PMS) determination and resulting adjustment to the reported cost of production (COP) for WLP; (3) reliance on the constructed value (CV) profit ratio and selling expenses calculated for Hyundai Steel in the first administrative review; (4) reclassification of NEXTEEL's reported losses relating to the suspended production of certain product lines; (5) adjustment to NEXTEEL's CV to account for sales of non-prime products; (6) refusal to employ its quarterly cost methodology to calculate SeAH's costs; (7) allocation of the general and administrative expenses of SeAH's U.S. affiliate Pusan Pipe America (PPA) across all of SeAH's U.S. sales of WLP sold through PPA; and (8) calculation of the rate assigned to the non-examined companies in light of any adjustments made to the calculations for either respondent stemming from the remand.<sup>4</sup> Therefore, the CIT remanded the

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<sup>1</sup> See *Welded Line Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 27762 (June 14, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> *Id.*

<sup>3</sup> See *Welded Line Pipe from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 35371 (July 23, 2019) (*Amended Final Results*).

<sup>4</sup> See *Husteel Co., Ltd. v. United States*, 471 F. Supp. 3d 1349 (CIT 2020),.

*Amended Final Results* to Commerce to provide further explanation or reconsider its treatment of these items.

In its first remand redetermination, issued in January 2021, Commerce recalculated SeAH's weighted-average dumping margin using the company's Canadian sales as the basis for NV and without making the PMS adjustment to the COP. As a result, SeAH's weighted-average dumping margin was 7.24 percent.<sup>5</sup>

On June 7, 2021, the CIT remanded the *Amended Final Results* to Commerce for a second time, ordering Commerce to provide further explanation or reconsideration of the adjustment to NEXTEEL'S CV to account for sales of non-prime products, consistent with the Court's opinion and the U.S. Court of Appeals for the Federal Circuit (CAFC)'s ruling in *Dillinger*.<sup>6</sup>

In its second remand redetermination, issued in September 2021, Commerce recalculated NEXTEEL's weighted average-dumping margin based on the actual costs of prime and non-prime merchandise reported by NEXTEEL. The revised weighted-average dumping margin for NEXTEEL was 11.41 percent and the resulting review-specific average rate for the non-selected respondents was 9.09 percent.<sup>7</sup> The CIT sustained Commerce's second redetermination.<sup>8</sup>

#### Timken Notice

In its decision in *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*,<sup>10</sup> the CAFC held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce

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<sup>5</sup> See Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 19-00112, dated January 7, 2021 at 42; see also Corrected Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 19-00112, dated January 21, 2021, where Commerce revised: (1) NEXTEEL's margin calculation to use SeAH's final revised calculations as the basis for CV profit and selling expenses, resulting in a rate of 11.67 percent; and (2) the review-specific average rate applicable to the non-selected respondents to be 9.21 percent.

<sup>6</sup> See *Husteel Co., Ltd. v. United States*, 520 F. Supp. 3d 1296, 1309 (CIT 2021) (citing *Dillinger France S.A. v. United States*, 981 F.3d 1318, 1321-41 (Fed. Cir. 2020) (*Dillinger*)).

<sup>7</sup> See Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 19-00112, Slip Op. 21-70 dated September 2, 2021, at 5-6.

<sup>8</sup> See *Husteel Co., Ltd. v. United States*, Consol. Court No. 19-00012, Slip Op. 22-1 (CIT January 3, 2022).

<sup>9</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s January 3, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results* and *Amended Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* and *Amended Final Results* with respect to NEXTEEL, SeAH, and the non-selected respondents as follows:

<b>Producer or Exporter</b>	<b>Weighted-Average Dumping Margin (Percent)</b>
NEXTEEL Co., Ltd.	11.41
SeAH Steel Corporation	7.24
Companies Not Selected for Individual Review	9.09

The exporters or producers not selected for individual review are listed in the appendix.

#### Cash Deposit Requirements

Because NEXTEEL, SeAH, and the non-selected companies have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rates for those exporters/producers.

#### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced and/or exported by NEXTEEL, SeAH, and the non-selected companies, and were entered, or withdrawn from warehouse, for consumption during the period December 1, 2016, through November 30, 2017. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on

unliquidated entries of subject merchandise produced and/or exported by NEXTEEL, SeAH, and the non-selected companies in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>11</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: January 4, 2022.

**Ryan Majerus,**  
*Deputy Assistant Secretary  
for Policy and Negotiations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance.*

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<sup>11</sup> See 19 CFR 351.106(c)(2).

## **Appendix**

### **Review-Specific Average Rate Applicable to Companies Not Selected for Individual Review**

1. AJU Besteel Co., Ltd.
2. BDP International, Inc.
3. Daewoo International Cooperation
4. Dongbu Incheon Steel Co.
5. Dongbu Steel Co., Ltd.
6. Dongkuk Steel Mill
7. Dong Yang Steel Pipe
8. EEW Korea Co., Ltd.
9. Husteel Co., Ltd.
10. Hyundai RB Co. Ltd.
11. Hyundai Steel Company/Hyundai HYSCO
12. Kelly Pipe Co., LLC.
13. Keonwoo Metals Co., Ltd.
14. Kolon Global Corp.
15. Korea Cast Iron Pipe Ind. Co., Ltd.
16. Kurvers Piping Italy S.R.L.
17. MSTEEL Co., Ltd.
18. Miju Steel MFG Co., Ltd.
19. Poongsan Valinox (Valtimet Division)
20. POSCO
21. POSCO Daewoo
22. R&R Trading Co. Ltd.
23. Sam Kang M&T Co., Ltd.
24. Sin Sung Metal Co., Ltd.
25. SK Networks
26. Soon-Hong Trading Company
27. Steel Flower Co., Ltd.
28. TGS Pipe
29. Tokyo Engineering Korea Ltd.

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